

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE PUBLIC UTILITIES COMMISSION

In the Matter of the Application of
Northern States Power Company d/b/a
Xcel Energy for Authority to Increase
Rates for Electric Service in Minnesota

FIRST PREHEARING ORDER

This matter came on for prehearing conference before Administrative Law Judge Kathleen D. Sheehy on January 13, 2006, at 1:30 p.m. at the Large Hearing Room of the Minnesota Public Utilities Commission (Commission), 350 Metro Square Building, 121 Seventh Place East, St. Paul, Minnesota.

Megan J. Hertzler, Senior Attorney, 800 Nicollet Mall, Suite 2900, Minneapolis, MN 55402, and Richard J. Johnson, Esq., Moss & Barnett, 4800 Wells Fargo Center, 90 South Seventh Street, Minneapolis, MN 55402, appeared on behalf of Xcel Energy.

Linda S. Jensen, Assistant Attorney General, 445 Minnesota Street, Suite 1400, St. Paul, MN 55101, appeared on behalf of the Department of Commerce (Department).

Ronald M. Giteck and Steve Alpert, Assistant Attorneys General, and Curt Nelson, Financial Analyst, 445 Minnesota Street, Suite 900, St. Paul, MN 55101, appeared on behalf of the Office of Attorney General—Residential Utility Division (OAG/RUD).

Bryan D. Shirley, Esq., Kennedy & Graven, 470 U.S. Bank Plaza, 200 South Sixth Street, Minneapolis, MN 55402, appeared on behalf of the Suburban Rate Authority.

Andrew P. Moratzka, Esq., Mackall, Crounse & Moore, 1400 AT&T Tower, 901 Marquette Avenue, Minneapolis, MN 55402, appeared on behalf of Ford Motor Company, Gerdau AmeriSteel US, Inc., and Marathon Ashland Petroleum LLC (Large Industrials).

Brian M. Meloy, Esq., Leonard, Street and Deinard, 150 South Fifth Street, Suite 2300, Minneapolis, MN 55402, appeared on behalf of Excelsior Energy, Inc.

Mike Franklin, Manager, Energy, Labor Management & Elections Policy, 400 Robert Street North, Suite 1500, St. Paul, MN 55101, appeared on behalf of the Minnesota Chamber of Commerce.

Ron Elwood, Esq., Midtown Commons, Suite 101, 2324 University Avenue West, St. Paul, MN 55114, appeared on behalf of the Legal Services Advocacy Project.

Chris Duffrin, Assistant Director, Energy CENTS Coalition (ECC), 823 East Seventh Street, St. Paul, MN 55106, appeared on behalf of ECC.

Mark Thieroff, Esq., Siegel, Brill, Greupner, Duffy & Foster, 1300 Washington Square, 100 Washington Avenue South, Minneapolis, MN 55401, appeared on behalf of Myer Shark and Rebecca Winegarden.

Susan Mackenzie, Marc Fournier, Louis Sickmann, and Clark Kaml appeared for the staff of the Commission.

Based on the discussions during the prehearing conference, and all the files and proceedings herein, the Administrative Law Judge makes the following:

ORDER

1. The parties to this matter as named in the Commission's Notice and Order for Hearing of December 30, 2005, are Xcel Energy, the Department, and the OAG/RUD. The following persons filed petitions to intervene with the Commission before this matter was referred to the OAH: Large Industrials; Legal Services Advocacy Project; ECC; International Brotherhood of Electrical Workers, Local Union 23 (IBEW Local 23); and International Brotherhood of Electrical Workers, Local Union 949 (IBEW Local 949). Because no objections to these petitions were made within 15 days of filing, those petitions to intervene are considered granted pursuant Minn. R. 7829.0800, subp. 5, and those persons have party status.

2. After referral to the OAH, the following additional persons filed petitions to intervene as a party: the Minnesota Chamber of Commerce; the Suburban Rate Authority; Excelsior Energy, Inc.; and Myer Shark and Rebecca Winegarden. No objections were made to these petitions to intervene, and the petitions were granted during the prehearing conference. Those persons also have party status.

3. Members of the public need not become formal parties to participate in the hearing. Members of the public may offer either oral or written testimony, and they may offer exhibits for inclusion in the record. But any person desiring to become a formal party must file a petition to intervene as described in Minn. R. 1400.6200. Any person who is allowed to intervene after the date of this Order shall be bound by the terms of this Order.

4. The final date for filing Petitions to Intervene is February 3, 2006. Any objection to a petition to intervene shall be filed within seven days of service of the petition. Any persons petitioning to intervene after February 3, 2006, may be restricted as to the scope of their participation. Any person who is not affiliated with a party or a participant will be removed from the service list after that date.

SCHEDULE

5. The following schedule is adopted:

Intervenor Direct Testimony	March 2, 2006
Rebuttal (all parties)	March 30, 2006
Surrebuttal (all parties)	April 13, 2006
Deadline for Written Public Comment	April 17, 2006
Evidentiary Hearing, beginning at 9:00 a.m. at the PUC	April 20-28, 2006
Initial Briefs	May 24, 2006
Reply Briefs and Proposed Findings	June 6, 2006
ALJ Report	July 6, 2006

6. The parties expect to hold public hearings between March 13-30, 2006, with an additional public hearing on the evening of April 20, 2006. Commission staff will work with Excel Energy, the other parties, and the OAH to determine exact dates and locations for the hearings.

SETTLEMENT

7. Pursuant to Minn. Stat. § 216B.16, subd. 1(a), the Administrative Law Judge is required to convene a proceeding for the purposes of discussing settlement of issues in a public utility rate proceeding. The Administrative Law Judge encourages the parties to exhaust opportunities for settlement. Recognizing that the potential for settlement cannot be evaluated until after additional testimony has been filed, the parties are directed to inform the Administrative Law Judge as to whether an additional proceeding should be convened to discuss settlement. Settlement assistance, including mediation, is available through the OAH.

PROCEDURE

8. The rules of the Office of Administrative Hearings govern the conduct of the hearings, and the Professionalism Aspirations adopted by the Minnesota Supreme Court will be observed.

FILING OF DOCUMENTS

9. Prefiled testimony and exhibits may be in any reasonable format that is understandable, logically organized, and capable of being cited by page and line number, paragraph number, or similar identifier.

10. All documents, including prefiled testimony **but excluding information requests and responses**, shall be filed as follows:

- A. Before the Report of the Administrative Law Judge is issued, the original and one copy shall be delivered or mailed to:

Administrative Law Judge Kathleen D. Sheehy
Office of Administrative Hearings
100 Washington Square, Suite 1700
Minneapolis, Minnesota 55401-2138

- B. After the Administrative Law Judge's Report is issued, the parties shall file the original of all documents with the Executive Secretary of the Commission.
- C. Copies of all documents shall be served on the persons listed on the attached service list, in the number indicated. An electronic copy, where possible, shall also be sent by e-mail to persons whose e-mail address is provided on the service list. Service shall be made according to the most current service list provided to the parties by the Office of Administrative Hearings.
- D. Pursuant to Minn. R. 1400.5100, subp. 9, and Minn. R. 7829.0400, subp. 1, the effective date of filing shall be the date the document is mailed or delivered to the Office of Administrative Hearings and the date the document is delivered to the Executive Secretary of the Commission. Filings with the Administrative Law Judge may be accomplished by e-mail, sent to kathleen.sheehy@state.mn.us, or facsimile transmission, facsimile number 612/349-2665. Any filing sent by e-mail or facsimile transmission will be followed by a hard copy mailed that day.

- E. Proof of service shall be filed with each filed document or within three business days thereafter.
- F. An electronic copy of prefiled testimony shall be served on the other parties and the court reporter by 3:00 p.m. on the day it is due.

11. One copy of any document or information filed with or supplied to the Commission or the Commission staff shall be served on every party.

DISCOVERY

12. A party may serve requests for information on any other party. All requests for information shall be made in writing by e-mail, and the requesting party shall follow the e-mail with a copy of the request sent by regular U.S. mail or other delivery service to all parties. To the extent that a request includes material designated as Trade Secret or Nonpublic under the Minnesota Government Data Practices Act, Chapter 13, an e-mail request is required only between the requesting and responding party. Requests shall be sent to the person(s) designated to receive data requests by the party from whom the information is sought. Any request received by e-mail after 4:30 p.m. on a business day, on a weekend day, or on a state holiday is considered received on the next business day.

13. The party responding to the request shall provide the requested information to the requesting party within eight business days of receipt of the request. A business day does not include weekend days and state holidays. In accordance with Minn. R. 1400.6100, subp. 1, the day that the information request is received is not counted in the eight-day period.

14. Responses to information requests shall be submitted by e-mail, and the responding party shall follow the e-mail with a copy of the response sent by regular U.S. mail or other delivery service. To the extent that a response includes material designated as Trade Secret or Nonpublic, an e-mail response is required only between the requesting party and the responding party. Any response received before 4:30 p.m. on a business day is considered to be received on the same day.

15. In the event that due to the volume or nature of information included in a response, the responding party is unable to send the response by e-mail, the responding party shall send the response by facsimile, regular U.S. mail or other delivery service so that the requesting party receives the entire response including any material designated as Trade Secret or Nonpublic by the date due. Responding parties may utilize CDs to convey large volumes of data. If the response is sent by facsimile, the responding party shall follow the facsimile with a copy of the response sent by regular U.S. mail or other delivery service. There shall be a continuing obligation to update and supplement information responses

with any responsive material that may subsequently be discovered or acquired by the responding party. The responsive information need not be supplied to other parties unless specifically requested by a party.

16. A party that wishes to receive e-mail copies of requests or responses shall notify the requesting/responding party, who shall provide the information in that format. If the request or response contains material designated as Trade Secret or Nonpublic information, the providing party may require that the requesting party comply with the terms of the Protective Order in this matter before providing the information.

17. In the event the information cannot be supplied within eight business days, the responding party shall notify the requesting party as soon as reasonably possible in advance of the deadline of the reasons for not being able to supply the information and to work out a schedule of compliance with the requesting party. All disputes concerning the reasonableness of discovery requests and the timing and sufficiency of responses shall be resolved by the Administrative Law Judge upon motion of a party. Such motion should be made by e-mail notice and will be heard during a telephone conference with the Administrative Law Judge and affected parties, unless the Administrative Law Judge requires other procedures.

18. For Xcel Energy, the following persons should be served with an e-mail copy of the request/response:

Megan Hertzler (megan.hertzler@xcelenergy.com)
Nancy Haley (nancy.a.haley@xcelenergy.com)
Teresa Kowles (teresa.j.kowles@xcelenergy.com)
Deb Paulson (debra.j.paulson@xcelenergy.com)

Hard copies of requests/responses should be mailed to:

Megan J. Hertzler	SaGonna Thompson
Assistant General Counsel	Records Analyst
Xcel Energy Services Inc.	Xcel Energy Services Inc.
800 Nicollet Mall	414 Nicollet Mall
Minneapolis, MN 55402	Minneapolis, MN 55402

19. For the Department, the following persons should be served with an e-mail copy of the request/response:

Dale Lusti (dale.lusti@state.mn.us)
Connie Lawson (connie.lawson@state.mn.us)

Hard copies of the requests/responses should be mailed to:

Connie Lawson
Minnesota Department of Commerce
85 7th Place East, Suite 500
St. Paul, MN 55101

20. For other parties, the e-mail addresses used shall be those included on the service list, unless the parties specifically request otherwise.

PREFILED TESTIMONY AND ORDER OF TESTIMONY

21. Prefiled testimony shall be marked and offered with exhibit numbers. Prefiled testimony that is amended, or not offered into the record, shall be considered withdrawn and the sponsoring witness may not be cross-examined concerning the withdrawn testimony. Except for good cause shown, all substantive revisions or corrections to any prefiled testimony shall be in writing and served upon the Administrative Law Judge and the parties no later than April 17, 2005.

22. Except for good cause shown, any new affirmative matter that is not offered in reply to another party's direct case will not be allowed in rebuttal or surrebuttal testimony and exhibits.

23. Unless the parties agree otherwise, the order of testimony and questioning in the evidentiary hearing shall be: Xcel Energy, Large Industrials, the Suburban Rate Authority, Excelsior Energy, Minnesota Chamber of Commerce, Legal Services Advocacy Project, ECC, IBEW Local 23, IBEW Local 949, Myer Shark and Rebecca Winegarden, other intervenors (in order of intervention), OAG/RUD, and the Department.

EXAMINATION OF WITNESSES

24. Witnesses shall be allowed ten minutes to summarize their prefiled testimony. For good cause shown, witnesses will be permitted to respond to any new matters not addressed in prefiled testimony through direct examination by counsel.

25. Parties shall examine and cross-examine witnesses through their attorneys, if they are represented by counsel. Any party not represented by counsel may examine and cross-examine each witness through any one representative chosen by the party.

26. Except for good cause shown, objections by any party relating to the qualifications of a witness or the admissibility of any portion of a witness's prefiled testimony shall be considered waived unless the objecting party states its objection by motion made to the Administrative Law Judge, and serves a copy of such objections on the parties, no later than **April 17, 2006**. If an objection is

made by a party, the party shall be permitted to lay further foundation for the objection through cross-examination of the witness. Any prefiled testimony that is not objected to shall be admitted during the evidentiary hearings without the necessity of laying foundation for the testimony.

Dated this 20th day of January, 2006.

s/Kathleen D. Sheehy

KATHLEEN D. SHEEHY
Administrative Law Judge